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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,532	11/26/2003	Fabian Montero	MONT-00600	8661
28960	7590	07/21/2005		
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			EXAMINER LINDSEY, RODNEY M	
			ART UNIT 3765	PAPER NUMBER

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/723,532

Applicant(s)

MONTERO, FABIAN

Examiner

Rodney M. Lindsey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/17/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: on page 5, line 20 "510" it appears should be --560-- and on page 6, line 4 "610" it appears should be --510--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The structural details of the adjusting means that permit the windshield position to be adjusted are not understood. The structural details of the manual override switch are not understood. The structural details of the position detection circuit are not understood.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1-12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Canadian patent to Fisk. With respect to claims 1, 7 and 14 note the provided helmet 12, windshield 14 and operating mechanisms as at 16, 18 equivalent to the means for automatically adjusting a position of the windshield as claimed. Inherently the operating mechanism of Fisk would function relative to the speed of a vehicle as it is capable of responding to a transmitted signal. With respect to claims 2, 3, 8 and 9 the specifics of the predetermined threshold value do not set forth any structure of the adjusting means not taught by the adjusting means of Fisk. With respect to claim 4 note the control circuit at 74 for receiving and performing a Boolean operation with regards signals from a transmitter 116. With respect to claim 5 note power supply 122. With respect to claim 6 note the manual override switch 96. With respect to claims 10 and 15 note the receiver and filter circuit as at 74 receiving signals from a device on a motorcycle and performing a Boolean operation on the signals, and the control circuit as at motor 96. With respect to claim 11 the source of the signals is not seen to set forth any structure of the control system not found in the control system of Fisk. With respect to claim 12 note the manual override switch "switch 96".

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Canadian patent to Fisk in view of Acquaviva. Fisk does not teach the position detection circuit and encoder.

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Acquaviva teaches a position detection circuit 70 and encoder 71 for sending a detection signal to a control circuit for motor 21M (see column 7, lines 12-32). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the system of Fisk with the position detection circuit 70 and encoder 71 of Acquaviva to achieve the advantage of establishing a threshold value for operation of the motor.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly, the controlled visors of Pei, Fantin and French patent to Degoin.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (571) 272-4989. The examiner can normally be reached on M-F (8:30-5:00).

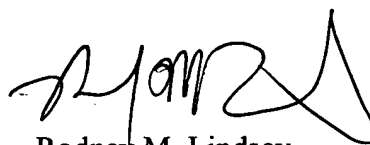
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'R. Lindsey', with a stylized, looping flourish at the end.

Rodney M. Lindsey  
Primary Examiner  
Art Unit 3765

rml